

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE LOUIS A. TELERICO
Debtor

CASE No. 17-50236
CHAPTER 11
JUDGE ALAN M. KOSCHIK

**MOTION OF LOUIS A. TELERICO DEBTOR AND DEBTOR IN POSSESSION TO AMEND THE ORDER
GRANTING HIS MOTION TO SELL A PARCEL OF REAL ESTATE FREE AND CLEAR OF ALL
LIENS, CLAIMS AND ENCUMBRANCES**

Louis A. Telerico Debtor and Debtor in Possession (“Debtor”), moves the Court pursuant to Federal Rule of Civil Procedure 60(b) made applicable to this proceeding by Federal Rule of Bankruptcy Procedure 9024 to amend the Order Granting Motion of Louis A. Telerico Debtor and Debtor in Possession to Sell a Parcel of Real Estate at 132 Bristol Drive Free and Clear of All Liens, Claims and Encumbrances [Doc. 182] (“Order”) for the reason that the order incorrectly identifies the lot number that was to be sold. A draft of the amendments to the order (which is being uploaded) with the redlined changes is attached.

THEREFORE, the Debtor respectfully requests that this Court enter the proposed amended order approving the sale of the Bristol Parcel free and clear of all liens, claims and encumbrances.

Respectfully submitted,
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CERTIFICATE OF SERVICE

A copy of this Motion to Amend was served on the following on the date filed by Notice of Electronic Filing or email.

The following is a list of the parties who are on the list to receive e-mail notice/service for this case:

17-50236 Notice will be electronically mailed to the U.S. Trustee, and:

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/s/ Frederic P. Schwieg

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**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE LOUIS A. TELERICO
Debtor

CASE No. 17-50236
CHAPTER 11
JUDGE ALAN M. KOSCHIK

**AMENDED ORDER GRANTING MOTION OF LOUIS A. TELERICO DEBTOR AND DEBTOR IN
POSSESSION TO SELL A PARCEL OF REAL ESTATE AT 132 BRISTOL DRIVE FREE AND CLEAR OF
ALL LIENS, CLAIMS AND ENCUMBRANCES**

Before the Court is the Motion of Louis A. Telerico Debtor and Debtor in Possession ("Debtor") to Sell a Parcel of Real Estate Free and Clear of All Liens, Claims and Encumbrances [Doc. 172] ("Motion"). In the Motion Debtor moves the Court pursuant to 11 U.S.C. §363(f) for the sale of the estate's interest in a vacant parcel of real property located at 132 Bristol Drive, Aurora Ohio free and clear of all liens, claims and encumbrances. A hearing on the Motion having been held before the Court on November 20, 2018 at 10:30 AM and no party in interest having opposed the Motion the Court FINDS and ORDERS as follows:

THE COURT FINDS:

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a "core" proceeding

pursuant to 28 U.S.C. § 157(b)(2)(A), (M) and (O). The statutory predicate for the relief sought herein is §363(b) and (f) of the Bankruptcy Code.

2. The Motion and Notice of the Motion was certified as being duly served according to the Bankruptcy Code and Federal Rules of Bankruptcy Procedure.

3. On February 5, 2017 the Debtor filed this bankruptcy case.

4. The Debtor has continued in possession of his property and has continued to operate and manage his businesses as debtor-in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner, and the United States Trustee has indicated that no official creditor committee is being formed in this case.

5. Debtor is the Trustee of the Louis A. Telerico 2010 Amended and Restated Revocable Trust Indenture dated February 1, 2010 (hereinafter referred to along with the predecessor trusts described below as the “Trust”). The Trust amended and restated the Debtor’s 2007 Amended and Restated Revocable Trust dated April 30, 2007, which itself amended and restated the Debtor’s Elaine J. Telerico Revocable Trust dated November 4, 1992. Under the 2010 Trust indenture all property of the prior trusts became property of the Trust.

6. Among the assets titled in the Trust is a house and approximately 2 acres of land at 545 Bristol Dr., Aurora Ohio, identified by permanent parcel number 03-016-00-00-173-003 and used by the Debtor as his residence (“Home”), and three adjacent or nearby parcels of land: Lot one at 1332 on Bristol Drive, Aurora Ohio identified by permanent parcel number 03-016-00-00-177-000 (“Bristol Parcel”) and Lot 130-A identified by permanent parcel number 03-016-00-00-173-001 and Lot-, 130-R, and 133 and identified by permanent parcel number 03-016-00-00-173-002 both on Glengarry Drive, Aurora, Ohio 44202 and identified by permanent parcel

~~numbers 03-016-00-00-173-001 and 03-016-00-00-173-002~~ (collectively the “Glengarry
Parcels” and with the Bristol Parcel the “Parcels” and both collectively with the Home, the “Real
Estate”).

7. The Debtor is both the trustee and settlor of the Trust which is revocable at the Debtor’s
discretion. The Bristol Parcel is therefore property of this bankruptcy estate.

8. Brad Cromes, Treasurer for Portage County Ohio (“Portage County Treasurer”) has a real
estate tax lien against the Bristol Parcel in the amount of \$4,051.89 that is a first priority lien
against it.

9. On or about December 4, 2009 the Debtor executed a promissory note payable to Stifel,
Nicolas & Company, Inc. (“Stifel”) in the principal amount of up to \$400,000.00 (“Stifel Note”).
To secure repayment of the Note on or about the same date the Trust as mortgagor gave to Stifel
a deed of trust granting it a mortgage interest in the Real Estate that is a second priority lien
against the Parcels although a third priority mortgage against the House (“Stifel Mortgage”).

10. On June 14, 2017, Stifel filed two proofs of claim: (i) a secured claim (the “Secured Claim”) in the amount of \$430,414.61 for amounts outstanding on the Stifel Note; secured and perfected by a deed of trust on the Real Estate, as more fully described in proof of claim number 20 and related exhibits; and (ii) an unsecured claim (the “Unsecured Claim” and, together with the Secured Claim, the “Stifel Claims”) in the amount of \$125,156.75 for amounts outstanding on a promissory note and related advanced tax payments as more fully described in proof of claim number 21 and related exhibits.

11. In a separate Motion of Louis A. Telerico Debtor and Debtor in Possession for Authority to Compromise Controversies with Stifel, Nicolas & Company, Inc. [Doc. 147] (“Compromise Motion”) the Debtor requests that the Court approve as a compromise with Stifel for \$125,000 as

described in the proposed settlement agreement attached to the Compromise Motion as Exhibit

A. The proposed compromise will be paid from the net proceeds of sale of the Parcels.

12. The Debtor seeks to sell the Bristol Parcel for \$150,000.00 (“Gross Proceeds”) on the terms and conditions set forth in the offer to purchase from Craig Novak (“Buyer”) attached hereto as Exhibit A.

13. The Debtor also seeks authority to pay from the Gross Proceeds as part of the sale payment of all outstanding real estate taxes through the closing date due the Portage County Treasurer (the “Real Estate Taxes”), broker’s commission, one half the escrow fee, one half of the realty transfer tax, one-half of the Owners Fee Title Policy in the amount of the purchase price, the title examination fee and any other customary closing costs (collectively the “Closing Costs” and the remaining sum being the “Net Proceeds”), and from the Net Proceeds an amount to Stifel necessary to satisfy any remaining balance due it under the Compromise Motion.

14. Buyer has no connection to the Debtor or the Debtor’s wife Sharon Stephula. The Buyer is purchasing the Bristol Parcel in good faith.

15. The only interest superior to the Stifel Mortgage in the Bristol Parcel is the lien for real estate taxes.

16. The Bristol Parcel has been listed for sale with a broker since May 2017. The Portage County Auditor’s 2017 market appraisal is \$157,000, and his proposed fair market appraisal for the Bristol Parcel for 2018 is \$189,000.00. The Debtor had the Bristol Parcel appraised in 2017 and the value of the Bristol Parcel was \$205,000, but recent sales of vacant parcels in Barrington have been in the \$150,000 range the proposed sales price is therefore fair and reasonable for the Bristol Parcel.

17. Stifel as holder of the superior mortgage against the Bristol Parcel, consents to the sale free of its interest.

18. Many of the interests in the Bristol Parcel are in bona fide dispute. .
19. As the remaining interests are junior in priority to the Stifel Mortgage, the holder of any interest in the Bristol Parcel may be compelled in a legal or equitable proceeding to accept a money satisfaction of such interest.
20. Therefore the Bristol Parcel may be sold free of any interest of any other entity.

THE COURT ORDERS:

- A. The Debtor is hereby authorized to sell the Bristol Parcel free and clear of any interest of any entity other than the estate;
- B. The Debtor is hereby authorized to disburse from the Gross Sale Proceeds an amount sufficient to pay the Real Estate Taxes, the Closing Costs and any amount of the Net Proceeds to Stifel necessary to satisfy any remaining balance due it under the Compromise Motion.
- C. All other interests in the Bristol Parcel are hereby transferred to the remaining Net Proceeds to be determined by a later order of this Court, in accordance with the respective rights and priorities of the holders of any interest in the Bristol Parcel, as such right appears and is entitled to be enforced against the Bristol Parcel, the Estate or the Debtor under the Bankruptcy Code or applicable non-bankruptcy law.

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SERVICE

A copy of this Motion to Sell was served on the following on the date filed by Notice of Electronic Filing or email.

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